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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,123	05/07/2001	Ian Hunter	1118/175	1166

2101 7590 08/04/2004

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EXAMINER	
SODERQUIST, ARLEN	

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/850,123	HUNTER ET AL.	
	Examiner	Art Unit	
	Arlen Soderquist	1743	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☒ Applicant's reply has overcome the following rejection(s): the obviousness type double patenting rejection of claim 26.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: *2-6*.

   Claim(s) rejected: *1,7,17-22 and 25-28*.

   Claim(s) withdrawn from consideration: *8-16 and 24*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *the terminal disclaimer filed 7-23-04 is approved*

Arlen Soderquist

ARLEN SODERQUIST
PRIMARY EXAMINER

Continuation of 2. NOTE: the changes to the claims don't change the previous issues and add additional language. The change to claim 1 potentially creates an issue with claim 4 in which there is a gradient of a specified substance in the second liquid (there is not a single second liquid) prior to contacting with the second liquid.

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record and the following additional comments. Relative to the 112 2nd paragraph rejection, examiner would point out that the claim does not specify what constitutes the column: the liquid or the structure which contains the liquid. Both are capable of being called a "column". The last part of claim 17 in which the liquid is transferred into each continous column appears to be referring to the structure which contains the liquid rather than the liquid. Since claim 18 clearly requires a discontinuous structure used to contain the liquid (there are gaps between platens) the claim does not appear to be within the scope of a continuous column if the column refers to the structure which contains the liquid. This is the issue and it appears to be solvable by clearly stating that the column is a column of liquid when it is present in the through-holes and the liquid is transferred into the through-holes to form the continuous liquid column.

Relative to the art rejections, examiner points out that claim 1 does not limit the manner in which the contact with the second liquid occurs and thus both simultaneous contact and serial contact are within the claim scope. Relative to claims 17-20, the figure of de Macario shown, figure 8, clearly shows the through holes in an aligned state. Relative to the diffusion of light, it appears that the diffusion of light is simply a property of passing the light through a plurality of throgh holes having liquid therein. At least that is the scope of the claim. Thus the diffused light appears to be simply an inherent property of the light passing through the liquid containing through holes of Davis or de Macario. If there are requirements relative to the microchannel plate (material type or thickness, microchannel diameter or density), the liquid (a single liquid or a plurality of different liquids), how it is contained in the through holes (convex or concave meniscus), or its use after passing through the microchannel plate, these are not found in claim 25. Relative to claim 26, examiner believes that applicant is arguing something equivalent to apples and oranges being the same thing. On one level they are both types of fruit, but that is where the comparison stops. A similar situation is true for the comparison between claim 1 of the Hunter patent and instant claim 26. While it is true that both claims have structure relative to the platen, that is where the comparison stops since the patented claim is directed to a method in which there are distinct steps that are required and which also figure into the consideration of the patentability of the claim. Additionally the structure while similar is also different between the two claims and considerations which might apply to the patented method claim are not commensurate in scope with or relevant to the instant apparatus claim.